
Appeal Decision

Site visit made on 6 September 2016

by Alex Hutson MATP CMLI MARborA

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 10th October 2016

Appeal Ref: APP/Y0435/W/16/3151446

5 Calewen, Two Mile Ash, Milton Keynes, Bucks MK8 8LP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mrs Suzanne Urie - Little Rising Stars Childcare Ltd against the decision of Milton Keynes Council.
 - The application Ref 15/02602/FUL, dated 12 October 2015, was refused by notice dated 15 December 2015.
 - The development proposed is "Change of use of part of a dwelling house (Use Class C3) to use by a childminder (Use Class D1) for up to 12 children."
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Decision

1. The appeal is dismissed.

Preliminary matters

2. I have taken the description of the proposed development from the Council's decision notice as this provides a clearer and more accurate description than that provided on the application form.
3. Section F of the appeal form describes the appeal as an appeal against a refusal to vary a condition. However, it is clear from the evidence that the appeal relates to a refusal of planning permission and I have dealt with it on this basis.

Main issues

4. The main issues are the effect of the proposal on the living conditions of the occupiers of neighbouring properties with particular regard to noise and disturbance; and the effect of the proposal on highway safety.

Reasons

Living conditions

5. The appeal property is a two storey semi-detached dwelling with a converted garage and a single storey rear extension, located within a predominantly residential area. The appellant, along with her husband, currently operates a childminding business from her home, looking after up to six children at time throughout the day during Mondays to Fridays. The proposed change of use of part of the ground floor of the appeal property would provide a childcare facility
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for up to 12 children with an additional two members of staff and would operate between the hours of 0730 to 1800 for 51 weeks of the year.

6. I acknowledge that the proposed internal play areas would not immediately adjoin any internal living areas of the adjoining dwelling, 7 Calewen. I also observed that the existing rear extension provides a reasonable screen between the rear garden of the appeal property and any internal living areas of Nos 3 and 7. Furthermore, there is a generous separation distance between the rear garden of the appeal property and the living areas of dwellings along Ethorpe which back onto this garden. In addition, whilst the proposal would generate a higher level of vehicle movements along Calewen, these additional vehicle movements would likely be spread out throughout the day. Moreover, the living areas of dwellings along Calewen tend to be set back considerably from the road frontage. Having regard to these factors, I am satisfied that the proposal would not give rise to any harmful levels of noise and disturbance in respect of the internal living areas of neighbouring properties.
7. However, dwellings along Calewen, including the appeal property, are tightly spaced and typically comprise rear gardens of a modest size, width and length. Therefore, the considerable increase in the number of children that the proposal would accommodate, which would greatly intensify the use of the garden, combined the modest dimensions of the garden, would give rise to a harmful level of noise and disturbance in respect of neighbouring gardens. This would result in the considerable detriment to the immediate neighbours' enjoyment of their gardens given their close relationship with the garden of the appeal property. This would be most notable during the summer months when there would be more opportunity for outdoor play and when neighbours would be more likely to use their rear gardens for relaxation. In addition, modern patterns of work are varied and people, including any elderly people, are likely to be home and using their gardens during the day when a reasonable level of peace and quiet would be expected within the context of a quiet residential area.
8. Whilst existing boundary fences and vegetation may assist with the reduction of noise and disturbance to some extent, I do not consider these features would provide an adequate level of sound insulation between gardens to overcome the harm. I also acknowledge the appellant's argument that outdoor play would be carefully planned, supervised and limited to certain times of the day. Furthermore that it is the intention of the appellant to utilise local open spaces as well as the rear garden. Nevertheless, whilst I respect the intentions of the appellant, I am not satisfied that these matters could reasonably be enforced to mitigate the harm identified.
9. I am also not convinced that there would be any significant difference in the level of noise that would be generated from children of varying ages. Nor am I persuaded that a modest number of children using the gardens of other dwellings in the area, which would in any case likely be on an occasional basis, is reasonably comparable to the noise and disturbance levels that would be generated by up to 12 children using a rear garden on a regular basis. Additionally, given that the schools in the area are not located in the immediate vicinity of the appeal property, it is unlikely that they generate any significant ambient noise levels along this part of Calewen. These matters do not, therefore, persuade me to alter my decision with regard to this main issue.

10. Saved Policy C6- Childcare Facilities, of the Milton Keynes Local Plan 2005 (MKLP) allows the change of use of part of a dwelling to use for childcare subject to a number of criteria set out in saved Appendix C6: Proposals for the Provision of Childcare Facilities. In respect of noise and disturbance, these criteria primarily relate to the effects on the living areas of adjacent dwellings. In light of my findings above I find no conflict with these saved policies.
11. However, the proposal would result in a harmful level of noise and disturbance for the occupiers of neighbouring properties which would substantially reduce their enjoyment of their gardens. This would be contrary to Saved Policy D1- Impact of Development Proposals on Locality, of the MKLP, which requires, amongst other things, development to avoid unacceptable noise pollution.

Highway safety

12. Paragraph 6.11 of the Council's delegated report and paragraph 4.9 of its appeal statement allows that all staff and resident parking could be provided on site. However, the proposal would only provide three on-site car parking spaces and the Council's Highways Engineer correctly points out that to meet the Council's parking standards, four would be required. Three drop-off spaces would also be required. Although the appellant intends to employ people who currently have no cars, that may change over time and so provision should be made.
13. Nevertheless, I was able to walk around the local streets in the area, including Calewen and Corn Hill at a time in the morning when children were arriving at school and therefore at a time when on-street parking is likely to be in higher demand. Whilst only a snapshot in time, I observed very little on street parking along these roads in the vicinity of the appeal property and observed that on-street parking opportunities were indeed considerable. There is no substantive evidence before me to demonstrate that this situation would be likely to alter significantly throughout the day. Moreover, Calewen in the vicinity of the appeal property did not appear to be a shared surface road and has footpaths along either side of it that would provide a good level of separation between pedestrians and any turning vehicles. In addition, Calewen has a straight alignment, the location of the appeal property is away from the junction and any vehicles would likely park for only a short period of time.
14. I therefore conclude that whilst contrary to the Council's parking standards, any on-street parking requirements generated by the proposal, including for one member of staff and for the drop off and collection of children, could be safely accommodated within the vicinity of the appeal property along Calewen or Corn Hill. Furthermore, I do not consider that it has been demonstrated by the Council that even if there was a material deficiency of on-street parking spaces, it would be bound to have a harmful effect on highway safety.
15. I therefore consider that whilst the proposal would fail to provide the required level of on-site parking to meet the Council's parking standards, it would not be likely to result in any off-site parking problems, inconvenience for local residents or the unsafe or inconvenient dropping off and collecting of children close to the premises. As a result, the proposal would not result in harm to highway safety and would therefore accord with saved Policy T15- Parking Provision, of the MKLP and saved Appendix C6, of the MKLP.

Other matters

16. I have no doubt that the appellant currently provides a high quality and professional childminding service, evident from the submitted OFSTED report and parent letters of support. Furthermore, with the assistance of additional qualified staff, I have no reason to doubt that this level of service could continue to be provided, at a reasonable cost and in a good quality environment, as a result of the proposed increased number of childcare places. Nevertheless, these matters would not outweigh the harm I have identified in respect of neighbour living conditions.
17. I recognise that childcare facilities can provide an important community benefit. I also acknowledge the appellant's argument that new housing units currently under development in the locality could increase demand for childcare in the future. However, whilst the appellant claims that there has been a reduction in childminders over the last few years and expresses concerns over potential nursery closures in the future, I have not been provided with any substantive evidence to demonstrate that there is currently an undersupply of childcare facilities in the area or insufficient capacity to accommodate any increased local demand in the future. I therefore do not consider that this is a material planning consideration to which I can afford any significant weight in my consideration of this appeal.
18. I acknowledge a number of third party concerns, including in respect of property devaluation, litter and internal cooking and toilet facilities. However, property devaluation is not a material planning consideration to which I can afford any significant weight. With regard to the other matters, the Council did not raise any concerns in this regard, and based on the evidence before me, I have no substantive reasons to take a different view.

Conclusion

19. Whilst I have not found harm to highway safety, I have found harm to the living conditions of the occupiers of neighbouring properties with regard to noise and disturbance. Such harm would be significant and therefore, for the reasons set out above and having regard to all other matters, I conclude that the appeal should be dismissed.

Alex Hutson

INSPECTOR